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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 10/649,165      | 08/27/2003  | Louis Ellman         | P-0201 ELL          | 4765             |

28752 7590 07/30/2007  
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| EXAMINER |
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MOUZON, LAJUANIA N

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| ART UNIT | PAPER NUMBER |
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2153

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| MAIL DATE | DELIVERY MODE |
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07/30/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

**Application No.**

10/649,165

**Applicant(s)**

ELLMAN, LOUIS

**Examiner**

La Juania N. Mouzon

**Art Unit**

2153

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 27 August 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-30 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-30 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 27 August 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- ☐ Notice of Informal Patent Application
- ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Information Disclosure Statement*

1. The listing of references in the specification is not a proper information disclosure statement. 37 CFR 1.98(b) requires a list of all patents, publications, or other information submitted for consideration by the Office, and MPEP § 609.04(a) states, "the list may not be incorporated into the specification but must be submitted in a separate paper." Therefore, unless the references have been cited by the examiner on form PTO-892, they have not been considered.

### *Drawings*

2. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference character(s) not mentioned in the description: 32 and 26<sub>n-1</sub> (**fig. 1**). Corrected drawing sheets in compliance with 37 CFR 1.121(d), or amendment to the specification to add the reference character(s) in the description in compliance with 37 CFR 1.121(b) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Specification***

3. The disclosure is objected to because of the following informalities: pg. 1 ¶2 should read, "...so that the advertising is not ~~property~~ properly targeted".

Appropriate correction is required.

4. The disclosure is objected to because of the following informalities: pg. 20 ¶2 should read, "...communication device in the capturing of such source ~~date~~ data."

Appropriate correction is required.

***Claim Rejections - 35 USC § 112***

5. Claims 4, 14, and 24 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

6. The phrase "substantially constantly" renders this claim indefinite because it is not defined in the specification nor would one of ordinary skill in the art know what "substantially constantly" would mean.

***Claim Rejections - 35 USC § 102***

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent

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granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

8. Claims 1-6, 8, 10-16, 18, 20-26, 28, and 30 are rejected under 35 U.S.C. 102(e) as being anticipated by Fisher et al. (US PGPub 2001/0051900).

9. In regards to claim 1 Fisher et al. discloses, a system of facilitating the dissemination of information comprising (**¶0004 line(s) 1-5**):

a. a target comprising:

i. a display that is visible to a plurality of interested users (**Fig. 1 #1, teaches a display visible to users.**);

ii. a memory assembly for storing a URL for a web-site related to the display (**¶0040, teaches a server connected to the display with memory. ¶0047 line(s) 10-14, teaches that this memory contains URLs.**),

iii. a transmitter assembly adapted to transmit the URL, and selectively activate the URL independent of the target (**Fig. 1 #9 and ¶0024, teaches a transmitter assembly (fish logo) adapted to transmit the URL.**).

iv. and an identifier that indicates to the plurality of users that the target comprises the memory assembly and transmitter (**Fig. 1 #9 and ¶0024, teaches an identifier as the fish logo.**),

v. whereby a respective interested user upon seeing the display and graphic identifier may use a respective hand-held transceiver to receive

the URL transmitted by the target and selectively activate the URL independent of the target (¶0027 line(s) 1-5, teaches the user using a hand held transceiver (Fig. 1 #15) to receive information from the target and selectively activate the URL independent of the target.)

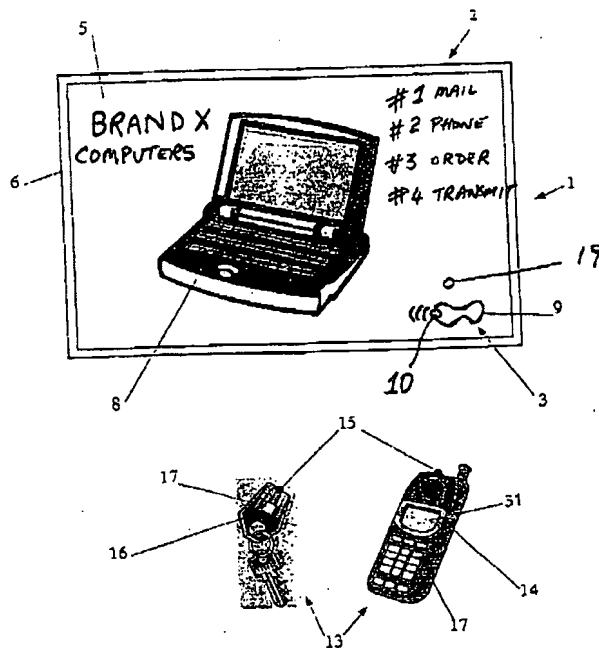


FIG. 1

10. In regards to claims 2, 12, and 22 Fisher et al. discloses, wherein the information display is an advertisement (Fig. 1 # 5 and ¶0023 line(s) 4-5, teachings the display displaying an advertisement.).

11. In regards to claims 3, 13, and 23 Fisher et al. discloses, wherein the transmitter assembly comprises a radio frequency transmitter or an infrared transmitter (Fig. 1 # 10 and ¶0024, teaches a infrared transmitter.).

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12. In regard to claims 4, 14, and 24 Fisher et al. discloses, wherein the transmitter is an active transmitter, whereby the URL is substantially constantly available to the plurality of interested users (**¶0046 line(s) 3-10 - ¶0047 line(s) 1-2, teaches that the transmitter is an active transmitter wherein the URL is stored and continuously updated based on a set time by the server.**).

13. In regards to claims 5, 15, and 25 Fisher et al. discloses, wherein the transmitter is a passive transmitter, whereby the respective hand-held transceiver is adapted to provide energy that activates the transmitter (**¶0027-¶0028 line(s) 1-3, teaches the hand-held transceiver activating the transmitter to transmit information.**).

14. In regards to claims 6, 16, and 26 Fisher et al. discloses, wherein the hand-held transceiver is a cellular phone, personal data assistant, or laptop computer (**Fig. 1 # 14, as shown above on pg. 5, and ¶0025 line(s) 5-6, teaches a cellular phone as the hand-held transceiver.**).

15. In regards to claims 8, 18, and 28 Fisher et al. discloses, wherein the URL is received by a respective hand-held transceiver operated by respective interested user only when the respective interested user initiates communication with the transmitter, whereby the URL is selectively received (**¶0027 line(s) 1-5, teaches that the hand-held transceiver initiates communication with the transmitter. Therefore, it is obvious that the URL is only received when the hand-held device initiates communication and thereby the URL will be selectively received.**).

16. In regards to claims 10, 20, and 30 Fisher et al. discloses, wherein the URL may be received, previewed, stored, activated, or transferred by a respective user using a respective hand-held transceiver (**¶0047 line(s) 6-13 - ¶0048 line(s) 1-3, teaches wherein the URL maybe received, previewed, stored, activated, and transferred by a respective user using a respective hand-held transceiver.**).

17. In regards to claim 11 Fisher et al. discloses, a system of facilitating the dissemination of information comprising (**¶0004 line(s) 1-5**):

b. a target comprising:

vi. a display that is visible to a plurality of interested users (**Fig. 1 #1, as shown above on pg. 5, teaches a display visible to users.**);

vii. a memory assembly for storing a URL for a web-site related to the display (**¶0040, teaches a server connected to the display with memory. ¶0047 line(s) 10-14, teaches that this memory contains URLs.**),

viii. a transmitter assembly adapted to transmit the URL (**Fig. 1 #9 and ¶0024, teaches a transmitter assembly (fish logo) adapted to transmit the URL.**).

ix. and an identifier that indicates to the plurality of users that the target comprises the memory assembly and transmitter (**Fig. 1 #9, as shown above on pg. 5, teaches an identifier as the fish logo.**);

x. and a hand-held transceiver (**Fig. 1 #15, as shown above on pg. 5 teaches a hand-held transceiver.**);



xi. whereby a respective interested user upon seeing the display and graphic identifier may use the hand-held transceiver to receive the URL transmitted by the target (**¶0027 line(s) 1-5, teaches the user using a hand held transceiver to receive information from the target.**)

18. In regards to claim 21 Fisher et al. discloses, a method of facilitating the dissemination of information comprising the steps of (**¶0004 line(s) 1-5**):

c. providing a target comprising:

xii. a display that is visible to a plurality of interested users (**Fig. 1 #1, as shown above on pg. 5, teaches a display visible to users.**),

xiii. a memory assembly for storing a URL for a web-site related to the display (**¶0040, teaches a server connected to the display with memory. ¶0047 line(s) 10-14, teaches that this memory contains URLs.**),

xiv. a transmitter assembly adapted to transmit the URL, (**Fig. 1 #9 and ¶0024, teaches a transmitter assembly (fish logo) adapted to transmit the URL.**)

xv. and an identifier that indicates to the plurality of users that the target comprises the memory assembly and transmitter (**Fig. 1 #9, as shown above on pg. 5, teaches an identifier as the fish logo.**);

xvi. receiving and storing the URL in the memory assembly (**¶0046 line(s) 3-10, teach receiving and storing the URL in the memory assembly (fish logo).**);

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xvii. transmitting the URL (**¶0047 line(s) 10-13, teach transmitting the URL.**)

xviii. whereby a respective interested user upon seeing the display and graphic identifier may use a respective hand-held transceiver to receive the URL transmitted by the target (**¶0027 line(s) 1-5, teaches the user using a hand held transceiver to receive information from the target.**)

***Claim Rejections - 35 USC § 103***

19. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

20. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

21. Claims 7, 9, 17, 19, 27, and 29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fisher et al. (US PGPub 2001/0051900).

22. In regards to claims 7, 17, and 27 Fisher et al. discloses wherein the URL is a specific embedded page of a website (**¶0047 line(s) 10-13, teaches receiving a URL and opening the specific webpage of that particular URL. It is obvious that any type of URL can be transmitted even one that is linked to an embedded page of a website.**).

23. In regards to claims 9, 19, and 29 Fisher et al. discloses wherein the URL is transmitted with a filtering code adapted to be used in a respective hand-held transceiver to avoid receiving interference or incorrect information (**¶0049, teaches that a code can be used with its advertising. Since the display is displaying advertisement and sending URLs according to this advertisement. Therefore it would be obvious to append a filtering code to the URL for users if they would like to receive only information about this advertisement again at any BLUEFISH logo display.**).

### ***Conclusion***


24. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Miyazawa (US PGPub 2002/0047868) electronic bulletin board and bulletin board system.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to La Juania N. Mouzon whose telephone number is 571-270-3045. The examiner can normally be reached on Monday - Friday 8:00-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glenton Burgess can be reached on 571-272-3949. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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